

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re:)	Chapter 11
)	
CIRCUIT CITY STORES, INC., <u>et al.</u>)	Case No. 08-35653-KRH
)	Jointly Administered
Debtors.)	

**ORANGE COUNTY TREASURER-TAX COLLECTOR’S RESPONSE TO
DEBTORS’ SECOND OMNIBUS OBJECTION TO CERTAIN LATE 503(B)(9)
CLAIMS**

Chriss W. Street, the Treasurer-Tax Collector for the County of Orange, California (“County”), respectfully submits the following Response to the above-captioned Debtors’ (“Debtors”) “Debtors’ Second Omnibus Objection To Certain Late 503(B)(9) Claims” (“Objection”). Said Response is based on the following Points and Authorities, the attached Exhibit, and any other evidence or argument that may be produced at hearing.

POINTS AND AUTHORITIES

1. County agrees with Debtors that this Court has jurisdiction to consider the Objection pursuant to 28 U.S.C. sections 157 and 1334. County also agrees that venue is proper before this Court pursuant to 28 U.S.C. sections 1408 and 1409, and that this matter is a core proceeding pursuant to 28 U.S.C. section 157(b).

Nicholas Chrisos, County Counsel
and Laurie A. Shade, Deputy (Ca. Bar No. 182364)
333 W. Santa Ana Blvd., Suite 407
P.O. Box 1379
Santa Ana, CA 92702-1379
Telephone: (714) 834-6297
Facsimile: (714) 834-2359
*Attorneys for Orange County California
Treasurer-Tax Collector*

Rhysa Griffith South (VSB #25944)
Assistant Henrico County Attorney
Office of the County Attorney, County of Henrico
P.O. Box 90775
Henrico, Virginia 23273-0775
Telephone: (804) 501-5091
Facsimile: (804) 501-4140
*Local Counsel to Orange County California
Treasurer-Tax Collector*

FACTS

2. The Objection seeks “the disallowance of certain claims asserting priority pursuant to section 503(b)(9) of the Bankruptcy Code that were filed after the 503(b)(9) Bar Date.”¹ (Objection, ¶ 10.)

3. Section 503(b)(9) provides in pertinent part for the allowance of administrative expenses for:

the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor’s business.

4. According to the Objection, the 503(b)(9) Bar Date Notice advised any holders of a Section 503(b)(9) Claim that failure to file a Section 503(b)(9) Claim request on or before the Bar Date shall result in them being “forever barred and estopped from asserting a 503(b)(9) Claim against the Debtors, their estates, or the property of any of them, absent further order of the Court.” (Objection, ¶ 16.)

5. Included in the list of claims the Objection seeks to be disallowed is County’s Claim No. 11242 (hereinafter “County’s Claim”), a true and correct conformed copy of which is attached hereto as Exhibit A. (Objection, Exhibits B and C.)

ARGUMENT

6. County is not a Section 503(b)(9) holder and did not file a Section 503(b)(9) Claim request. County filed a Request for Payment of Expenses of Administration for post-petition property taxes in an estimated amount of \$112,356.55 for the 2009-2010 tax year. The request specifies that it is being brought under 11 U.S.C. section 503(b)(1)(B)

¹ All statutory references are to the Bankruptcy Code (11 U.S.C. §§ 101-1330), unless otherwise noted.

and (C), *not* under 503(b)(9) and the attachments thereto set forth Debtors' post-petition tax liability making it clear that County's Claim is for taxes *not* for goods sold.

7. Given the fact that County's Claim is not a claim "for administrative expenses for the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business," it is not properly included as the subject of this "Objection for Certain Late 503(b)(9) Claims."

8. Counsel for the County has contacted Debtors' counsel by electronic mail and by telephone for the purpose of pointing out this mistake but to date, has not received a response from any of the four attorneys contacted.

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CONCLUSION

9. In sum, since County's Claim is not a 503(b)(9) Claim, late-filed or otherwise, Debtors' Objection does not apply to County's request for payment of post-petition priority taxes incurred as expenses of administration. Accordingly, the Objection should be denied as to County's Claim.

Respectfully submitted,

Dated: April 29, 2009
Santa Ana, California

NICHOLAS CHRISOS, COUNTY COUNSEL
and LAURIE A. SHADE, SENIOR DEPUTY

By /s/ Laurie A. Shade

Laurie A. Shade, Deputy (Ca. Bar No. 182364)
Office of the County Counsel
333 W. Santa Ana Blvd., Suite 407
P.O. Box 1379
Santa Ana, CA 92702-1379
Telephone: (714) 834-6297
Facsimile: (714) 834-2359

Attorneys for Orange County California
Treasurer-Tax Collector

County of Henrico, Virginia

By /s/ Rhysa Griffith South

Rhysa Griffith South (VSB #25944)
Assistant Henrico County Attorney
Office of County Attorney
County of Henrico
P.O. Box 90775
Henrico, Virginia 23273-0775
Telephone: (804) 501-5091
Facsimile: (804) 501-4140

Local Counsel to Orange County California
Treasurer-Tax Collector

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the above Response to Debtors' Second Omnibus Objection to Certain Late 503(b)(9) Claims to the following parties via electronic means and to all other parties electronically to the court via the CM/ECF system on the 29th day of April, 2009:

Gregg M. Galardi, Esq.
Ian S. Fredericks, Esq.
Skadden, Arps, Slate, Meagher & Flom, LLP
P.O. Box 636
Wilmington, Delaware 19899-0636
Gregg.Galardi@skadden.com
Ian.Fredericks@skadden.com

Douglas M. Foley, Esq.
Dion W. Hayes, Esq.
McGuireWoods, LLP
One James Center
901 East Cary Street
Richmond, Virginia 23219
dhayes@mcguirewoods.com
dfoley@mcguirewoods.com

Lynn L. Tavenner, Esq.
Paula S. Beran, Esq.
Tavenner & Beran, PLC
20 North Eighth Street, Second Floor
Richmond, Virginia 23219
ltavenner@tb-lawfirm.com
pberan@tb-lawfirm.com

Robert B. Van Arsdale, Esq.
Office of the United States Trustee
701 Broad Street, Suite 4304
Richmond, Virginia 23219
Robert.b.van.arsdale@usdoj.gov

/s/ Laurie A. Shade
Laurie A. Shade (Ca. Bar No. #182364)

UNITED STATES BANKRUPTCY COURT
VIRGINIA EASTERN DISTRICT, RICHMOND DISTRICT

IN RE: CIRCUIT CITY STORES INC
Tc Ref No.: 0073279, 0073284, 0073285,
0073290, 0441156, & 0073291
Bk No.; 0900027

Case Number: 08-35653 KRH
Chapter: 11
REQUEST FOR PAYMENT OF
EXPENSES OF ADMINISTRATION
Estimated 2009-2010 Tax Year

1. The undersigned makes this claim in the above-entitled bankruptcy as a priority tax claim for expenses of administration under 11 U.S.C., 503(b)(1)(B)(I), and 503(b)(1)(C) in the sum of \$ 112,356.55 . As of, _____ per month will accrue and continue to attach to the claim until paid in full. Government Code Section 43001.

Itemization of penalties and fees are attached.

2. This claim is for taxes due under the Revenue and Taxation code of the State of California Sections 2191.3, 2191.4 & 2193.
3. The amount of all payments, if any, on this claim has been credited and deducted for the purpose of making this proof of claim.

☒ Interest attaches pursuant to California Revenue and Taxation Code Sections 2704, 2705, 2706, 4103, 4103(b) or 2922.

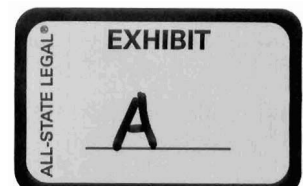
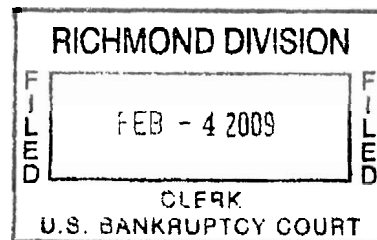
☒ The amount of the claim may be subject to amendment after mandatory audit by the County Assessor pursuant to California Revenue & Taxation Code, Section 469.

Executed under penalty of perjury at Orange County, California, January 28, 2009,

Orange County Treasurer-Tax Collector
P.O. Box 1438
Santa Ana, CA 92702-1438
714/834-3411 FAX: 714/834-6229

Chriss W. Street

R. D. Butani
By: Ratna D Butani ,
Deputy





DEBTOR: Circuit City Stores Inc.			
CASE NO.:	08-35653 KRH	PETITION DATE:	11/10/2008
CHAPTER:	11	BANKRUPTCY NO.:	0900027

Post-Petition Priority Tax Liability

YEAR	PROPERTY TYPE ASSESSMENT NO:	NET VALUE	TOTAL BASE TAX	Basic 10% PENALTY	ADDL PENALTY	INTEREST	FEES	AMOUNT PAID	CLAIM TOTAL
2009 Est	BUSINESS ASSESSMENTS 08 376629	1,043,546	\$12,766.99	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$12,766.99
2009 Est	BUSINESS ASSESSMENTS 08 438411	693,524	8,799.98	\$0.00	\$0.00	0.00	\$0.00	0.00	\$8,799.98
2009 Est	BUSINESS ASSESSMENTS 08 438407	254,968	3,145.98	\$0.00	\$0.00	0.00	\$0.00	0.00	\$3,145.98
2009 Est	BUSINESS ASSESSMENTS 08 438408	182,055	2,374.57	\$0.00	\$0.00	0.00	\$0.00	0.00	\$2,374.57
2009 Est	BUSINESS ASSESSMENTS 08 438409	797,343	9,611.17	\$0.00	\$0.00	0.00	\$0.00	0.00	\$9,611.17
2009 Est	BUSINESS ASSESSMENTS 08 467499	991,611	12,327.94	\$0.00	\$0.00	0.00	\$0.00	0.00	\$12,327.94
2009 Est	BUSINESS ASSESSMENTS 08 421405	806,153	9,975.46	\$0.00	\$0.00	0.00	\$0.00	0.00	\$9,975.46
2009 Est	BUSINESS ASSESSMENTS 08 421406	1,836,887	22,729.93	\$0.00	\$0.00	0.00	\$0.00	0.00	\$22,729.93
TOTALS:		\$6,606,087	\$81,732.02	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$81,732.02

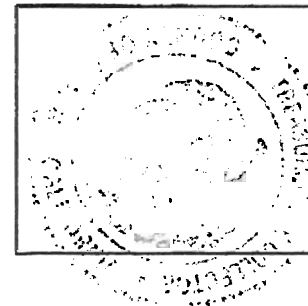
Note: This Claim is subject to amendment or modification in the event of an audit assessment, if the debtor has failed to file a Business Property Statement, or if the debtor has acquisitions or dispositions of assets subject to assessment.

I certify the above to be a true and correct copy of the original entry of the unsecured property tax roll.

ORANGE COUNTY TAX COLLECTOR

Page 1

By R. D. Butani
Ratna D Butani 1/27/2009
Deputy Tax Collector





DEBTOR: Circuit City Stores Inc.		
CASE NO.:	08-35653 KRH	PETITION DATE: 11/10/2008
CHAPTER:	11	BANKRUPTCY NO.: 0900027

Post-Petition Priority Tax Liability

YEAR	PROPERTY TYPE ASSESSMENT NO:	NET VALUE	TOTAL BASE TAX	Basic 10% PENALTY	ADDL PENALTY	INTEREST	FEES	AMOUNT PAID	CLAIM TOTAL
	Total Page 1		\$81,732.02	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$81,732.02
2009 Est	BUSINESS ASSESSMENTS 08 444241	824,029	10,450.79	\$0.00	\$0.00	0.00	\$0.00	0.00	\$10,450.79
2009 Est	BUSINESS ASSESSMENTS 08 438410	904,022	11,186.51	\$0.00	\$0.00	0.00	\$0.00	0.00	\$11,186.51
2009 Est	BUSINESS ASSESSMENTS 08 438412	702,844	8,987.23	\$0.00	\$0.00	0.00	\$0.00	0.00	\$8,987.23
TOTALS:		\$2,430,895	\$112,356.55	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$112,356.55

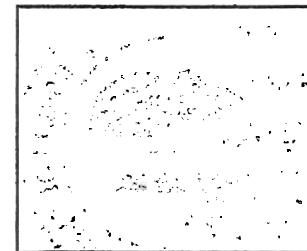
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ORANGE COUNTY TAX COLLECTOR

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By R. D. Butani
Ratna D Butani 1/27/2009
Deputy Tax Collector



PROOF OF SERVICE BY MAIL

(CCP SEC. 1013A, 2015.5)

I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to the within action. My business address is Orange County Treasurer-Tax Collector, 12 Civic Center Plaza, Room G40 Santa Ana, CA 92702.

DOCUMENT(S) SERVED: Proof of Claim

On January 28, 2009, I served the documents named above on the parties in this action by placing a true copy of said document(s) in a sealed envelope in the following manner:

☒ (BY MAIL) I caused each such envelope, with postage fully prepaid, to be placed in the United States mail at Santa Ana, California. I am readily familiar with this office's practice for collecting and processing correspondence for mailing, said practice for collecting and processing correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is place for.

☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on this January 28, 2009

at Santa Ana, California by



Roselyn Prasad
Deputy Tax Collector

NAME AND ADDRESS OF PERSON(S) SERVED:

Attorney for the Debtor

Daniel F Blanks
9000 World Trade Center, 101 W Main St.
Norfolk, Va 23510

Claims Processing Dept.
Circuit City Stores, Inc., et al.
Kurtzman Carson Consultants LLC
2335 Alaska Avenue
El Segundo, CA 90245